

## NBC Election Night Coverage

### NBC Balks at Sharing Election Night Tapes August 8, 2001

*Politics: Congressman threatens to seek subpoena for disclosure. Rumors say executive pushed for Bush call.*

#### Los Angeles Times

By Megan Garvey

A showdown between a Democratic congressman and the head of NBC over what exactly happened in the network's newsroom on election night is reviving questions about whether Congress should have any role overseeing the news media.

What began as a friendly offer by NBC President Andrew Lack at a Valentine's Day congressional hearing quickly degenerated into an exchange of angry letters between Lack and Rep. Henry A. Waxman (D-Los Angeles) over access to internal videotapes of NBC's newsroom on election night.

While some observers said they doubted Waxman, who has threatened to seek a subpoena if the tapes aren't turned over by Labor Day, could force NBC to turn over any tapes, they said the dispute highlighted the pitfalls for executives from 1st Amendment-protected industries who voluntarily appear in front of Congress.

At issue in Lack's case is sworn testimony at the February hearing into botched election night news coverage. In his testimony, Lack offered to turn over a copy of tapes--if they existed--that showed the newsroom actions of his corporate boss, General Electric Chairman Jack Welch. The rumor, Waxman told Lack, was that Welch, a major contributor to the Republican Party, had "intervened" in the network's decision to call the race for George W. Bush. Waxman said he had heard Welch "cheered" for Bush and "hissed" Democratic candidate Al Gore. At one point, Waxman said Welch had allegedly asked someone on the decision desk: "What would I have to give you to call the race for Bush?"

Lack, speaking under oath, said that Welch was in the newsroom on election night to observe, adding that rumors the GE chairman did more were "untrue and rather foolish." Lack also told Waxman he was "certainly welcome to the tape."

A week later, however, he argued that Congress had no right to the internal deliberations of any news organization. Moreover, he said in a letter to Waxman, pursuit of the footage violated the committee's assurances that "there would be no attempt by Congress to insert itself, in any form, into our editorial processes."

By July 31, Lack said that as far as NBC was concerned, the issue was closed--a stance Waxman labeled "arrogant."

"It wouldn't reflect well on any organization," Waxman wrote last week, "but is especially inappropriate for a company that prides itself on uncovering truth and depends on public confidence for its continued credibility."

He told Lack he would seek a congressional subpoena if necessary to get the tapes--which he said NBC officials had confirmed to him had been made for promotional and advertising purposes.

Some congressional observers question whether a subpoena for the tapes would be enforced--even in the unlikely event it was approved by the Republican-controlled House. Democratic legal expert Stanley Brand, a former chief counsel to the House of Representatives, said in 30 years in Washington he could not remember a single successful attempt by Congress

to subpoena a news organization.

Still, Brand said the quandary NBC's Lack found himself in was predictable. "Executives from news or music or movie industries don't want to appear arrogant, " he said. "But people always live to rue the day they waive those sorts of free speech objections because boy, it's not fun to have to take things back. It's embarrassing if nothing else."

While the heads of ABC, CBS, CNN, Fox News, NBC and Associated Press all bristled at being sworn in to testify at the election-night hearing, they said they wanted to be frank about what went wrong.

Now, in light of Waxman's subpoena threats, some of the same news organizations privately expressed misgivings about the hearing, noting that government intrusion was a concern when the networks agreed to attend.

But others--less sympathetic--noted that Waxman was trying to get internal promotional videotape, not actual interview tapes, and that Lack in his testimony had volunteered to turn them over.

Waxman's unusual pursuit of behind-the-scenes events at NBC had its genesis in a hearing first called for by Rep. W.J. "Billy" Tauzin (R-La.) during the heat of the presidential recount. At the time, Tauzin raised question about political bias tainting coverage and influencing the first premature call of victory in Florida for Gore by the networks and Associated Press.

A later but also premature call of victory for Bush in Florida--and therefore the nation--was made first by Fox News and then followed in quick succession by the other networks, although not AP.

Tauzin and other Republicans later backed off charges of bias after Bush was declared the winner, saying the hearing would instead focus on the breakdown in exit polling. NBC officials this week declined to discuss the Waxman inquiry in depth.

"I think most everyone knows there just isn't anything to this," said NBC spokeswoman Cassie Kantor. "This is about a baseless rumor that has already gotten more attention than it deserves."

But Waxman's aides said he intended to get to the bottom of the Welch rumors, which he has said may just be "an urban myth."

"He's asking a simple question that deserves a direct response given the special trust the public has in NBC and other networks," said Waxman's chief of staff, Phil Schiliro. "The easiest way to resolve it is to provide the tape."



